

94TH CONGRESS }
2d Session }

SENATE

{ REPORT
No. 94-755

FOREIGN AND MILITARY INTELLIGENCE

BOOK I

FINAL REPORT
OF THE
SELECT COMMITTEE
TO STUDY GOVERNMENTAL OPERATIONS
WITH RESPECT TO
INTELLIGENCE ACTIVITIES
UNITED STATES SENATE
TOGETHER WITH
ADDITIONAL, SUPPLEMENTAL, AND SEPARATE
VIEWS



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83. *Security Clearances*—In the course of its investigation, the Committee found that because of the many intelligence agencies participating in security clearance investigations, current security clearance procedures involve duplication of effort, waste of money, and inconsistent patterns of investigation and standards. The intelligence oversight committee(s) of Congress, in consultation with the intelligence community, should consider framing standard security clearance procedures for all civilian intelligence agencies and background checks for congressional committees when security clearances are required.

84. *Personnel Practices*—The Committee found that intelligence agency training programs fail to instruct personnel adequately on the legal limitations and prohibitions applicable to intelligence activities. The Committee recommends that these training programs should be expanded to include review of constitutional, statutory, and regulatory provisions in an effort to heighten awareness among all intelligence personnel concerning the potential effects intelligence activities may have on citizens' legal rights.

85. *Security Functions of the Intelligence Agencies*—The Committee found that the security components of intelligence agencies sometimes engaged in law enforcement activities. Some of these activities may have been unlawful. Intelligence agencies' security functions should be limited to protecting the agencies' personnel and facilities and lawful activities and to assuring that intelligence personnel follow proper security practices. (See the Committee's Final Report on Domestic Intelligence, section on Intelligence Activities and the Rights of American Citizens, p. 304.)

86. *Secrecy and Authorized Disclosure*—The Committee has received various administration proposals that would require persons having access to classified and sensitive information to maintain the secrecy of that information. The Committee recommends that the issues raised by these proposals be considered by the new legislative intelligence oversight committee(s) of Congress and that, in recasting the 1947 National Security Act and in consultation with the executive branch, the oversight committee(s) consider the wisdom of new secrecy and disclosure legislation. In the view of the Committee any such consideration should include carefully defining the following terms:

- national secret;
- sources and methods;
- lawful and unlawful classification;
- lawful and unlawful disclosure.

The new legislation should provide civil and/or criminal penalties for unlawful classification and unlawful disclosure. The statute should also provide for internal departmental and agency procedures for employees who believe that classification and/or disclosure procedures are being improperly or illegally used to report such belief. There should also be a statutory procedure whereby an employee who has used the Agency channel to no avail can report such belief without impunity to an "authorized" institutional group outside the agency. The new Intelligence Oversight Board is one such group. The intelligence oversight committee(s) of Congress would be another. The statute should specify that revealing classified information in the course of reporting information to an authorized group would not constitute unlawful disclosure of classified information.

87. *Federal Register for Classified Executive Orders*—In the course of its investigation, the Committee often had difficulty locating classi-

fied orders, directives, instructions, and regulations issued by various elements of the executive branch. Access to these orders by the intelligence oversight committee(s) of Congress is essential to informed oversight of the intelligence community.

The Committee recommends that a Federal Register for classified executive orders be established, by statute. The statute should require the registry, under appropriate security procedures, of all executive orders—however they are labeled—concerning the intelligence activities of the United States. Among the documents for which registry in the Classified Federal Register should be required are all National Security Council Intelligence Directives (NSCIDs), and all Director of Central Intelligence Directives (DCIDs). Provision should be made for access to classified executive orders by the intelligence oversight committee(s) of Congress. Classified executive orders would not be lawful until filed with the registry, although there should be provision for immediate implementation in emergency situations with prompt subsequent registry required.